

The question is, Will the Senate advise and consent to the Gupta nomination?

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 160 Ex.]

YEAS—51

Baldwin	Hickenlooper	Peters
Bennet	Hirono	Reed
Blumenthal	Kaine	Rosen
Booker	Kelly	Sanders
Brown	King	Schatz
Cantwell	Klobuchar	Schumer
Cardin	Leahy	Shaheen
Carper	Lujan	Sinema
Casey	Manchin	Smith
Coons	Markey	Stabenow
Cortez Masto	Menendez	Tester
Duckworth	Merkley	Van Hollen
Durbin	Murkowski	Warner
Feinstein	Murphy	Warnock
Gillibrand	Murray	Warren
Hassan	Ossoff	Whitehouse
Heinrich	Padilla	Wyden

NAYS—49

Barrasso	Graham	Risch
Blackburn	Grassley	Romney
Blunt	Hagerty	Rounds
Boozman	Hawley	Rubio
Braun	Hoeben	Sasse
Burr	Hyde-Smith	Scott (FL)
Capito	Inhofe	Scott (SC)
Cassidy	Johnson	Shelby
Collins	Kennedy	Sullivan
Cornyn	Lankford	Thune
Cotton	Lee	Tillis
Cramer	Lummis	Toomey
Crapo	Marshall	Tuberville
Cruz	McConnell	Wicker
Daines	Moran	Young
Ernst	Paul	
Fischer	Portman	

The nomination was confirmed.

The PRESIDING OFFICER (Ms. BALDWIN). The majority leader.

Mr. SCHUMER. Madam President, first I just want to say, before I move on a motion to discharge, it is really so good to have Vanita Gupta now installed as Associate Attorney General. To have someone with such a background in civil rights at this time in American history is so important and so vital to the country.

I am so glad that the Senate has now approved her and she can do her vital job, including dealing with the systemic bias we have seen in policing and in law enforcement throughout the country. So it is very good news for the forces of equality and justice in the country.

The PRESIDING OFFICER. The majority leader.

Mr. SCHUMER. Madam President, I ask that the motion to reconsider be made and laid upon the table with no intervening action or debate and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO DISCHARGE

Mr. SCHUMER. Madam President, pursuant to S. Res. 27, the Committee on Armed Services being tied on the question of reporting, I move to discharge the Committee on Armed Services from further consideration of the nomination of Colin Hackett Kahl, of California, to be Under Secretary of Defense for Policy.

The PRESIDING OFFICER. Under the provisions of S. Res. 27, there will now be up to 4 hours of debate on the motion, equally divided between the two leaders or their designees, with no motions, points of order, or amendments in order.

Mr. SCHUMER. I ask unanimous consent that the time be equally divided during the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The senior Senator from Oklahoma.

NOMINATION OF COLIN HACKETT KAHL

Mr. INHOFE. Let my start by urging my colleagues in the Senate to vote against the motion to discharge from the Senate Armed Services Committee the nomination of Colin Kahl for Under Secretary of Defense for Policy. This is not a decision I take lightly. I have always felt that any new administration should have his team or her team, and I have generally been very supportive.

When President Biden nominated Dr. Kahl for this position, my expectation was that, if confirmed, he and I would often disagree on policy, but we would actually get along together; we could coexist together. I quickly learned that this would really be impossible with Dr. Kahl. I don't think I have ever said that about any nominee for any position that I can recall.

My Republican colleagues in the Senate Armed Services Committee—all 12 of them—reached the same conclusion. We opposed his nomination unanimously. That is very unusual.

Before I explain why not a single Republican was able to support Dr. Kahl's confirmation in committee, I want to emphasize how rare this is. The Senate Armed Services Committee, as everyone knows, is extremely bipartisan, certainly in the years that I was chairing that committee with Ranking Member JACK REED. We got along famously. We got things done that other people couldn't get done.

The Senate Armed Services Committee has always been bipartisan. We have disagreements, of course, but Republicans and Democrats on the committee have a legacy of consensus. National security and taking care of our

troops are bipartisan concerns. This is how we succeeded in passing the National Defense Authorization Act.

The National Defense Authorization Act is the largest bill every year. It is the one where it sets out the guidelines for the coming year, and it is the one where we always have gotten along. We passed it every year for 60 consecutive years. It shows and demonstrates very clearly how well we get along.

The Department deserves a nominee with bipartisan credibility. You have to keep in mind this position is the No. 3 position in the Pentagon. It represents our shared bipartisan vision of effective national security and healthy civil-military relations.

This position demands a nominee who can carry out the President's policies while engaging those who disagree in good faith. That isn't the case with this nominee. That is why we are faced with this vote today.

I also want to clear up a common misunderstanding. Republicans on the committee did not vote against Dr. Kahl simply because we disagreed with his policy views. Policy is what that position is. It is the policy position of the Pentagon. This should be obvious to anyone who paid attention to the confirmation of President Biden's nominees for Secretary of Defense and Deputy Secretary. We got through both of them quickly. I don't remember a time when any new administration got the two very significant positions of Secretary of Defense and Deputy Secretary of Defense so fast. We got them in record time. There are some things that we disagree with policywise, but we supported their confirmation, as did most of my Republican colleagues, for one reason: They were eminently qualified. I am talking about the Secretary of Defense and the Deputy Secretary. Both of them were eminently qualified, with long track records of bipartisan cooperation and strong professional judgment. I have dealt with both of them for many, many years.

In fact, we expedited the nomination to give the President his national security team just about as quickly as we could. Republicans may disagree with him, but we can work with them very well.

Unfortunately, the same cannot be said of Colin Kahl. The national security problems we face are wicked and complex. We wrestle with them constantly on this committee.

What I cannot support are nominees who reduce complex national security conversations to partisan sound bites. For instance, as many of my colleagues will recall, back in October of 2019, Republicans and Democrats disagreed about our policy in Syria. When President Trump announced a full U.S. troop withdrawal from northeastern Syria, some of our colleagues worried about extended deployments. This is a reasonable concern because here is how Dr. Kahl chose to characterize it: Republicans are "the party of ethnic cleansing," he wrote. He actually said that. He said that publicly.

Good and kind people can disagree with each other. They don't have to resort to name-calling and accusations of war crimes.

That is not an isolated example, as we discovered during our review of Kahl's writings and public statements. He often embraces conspiracy theories. For example, he alleged a "Kushner-Kremlin quid pro quo" referring to the President's son-in-law. And when given the opportunity to correct this type of conspiracy theory during his confirmation hearings, he refused to do it. He stood by those statements.

Dr. Kahl also has a long history of claiming every policy decision with which he disagrees will lead to war. Thankfully, he has never been right.

Dr. Kahl predicted that President Trump's decision to withdraw from the Iran deal would lead to war. It didn't. He said by sanctioning Iran's Foreign Minister, President Trump was boxing "himself into war." There was no war. It didn't happen.

At one point, Dr. Kahl suggested that President Trump might "start a war with Iran for political diversionary purposes." This is a ridiculous claim. Obviously, it didn't happen.

According to Dr. Kahl, the strike on Iranian terrorist leader Soleimani, the appointment of John Bolton as National Security Advisor, and the events of the Korean Peninsula, among others, were going to lead to war. And none of the wars happened.

His public declarations and policy judgment are consistently partisan and consistently wrong. The Under Secretary of Defense for Policy serves as the Defense Secretary's top national security advisor. It requires a leader with sound judgment and even temperament, and Colin Kahl simply doesn't possess either one of these qualities.

Even worse, Dr. Kahl has a long track record of maligning people whom he disagrees with. I mentioned the Syrian example earlier. He also said that the Republican Party has a "death cult fealty" to Trump. That is seriously what he said.

The bare minimum for the Defense Department's top policy position is good judgment and even temperament. Dr. Kahl lacks both of these qualifications. It would set a terrible precedent if we confirm someone like him for the job.

I have a history of working so well with people on both sides, which is why I can and have supported many nominees whose policy views differ from mine. That goes with the job.

We have someone who is elected President of the United States. I disagree with him on many of the issues having to do with our defense policy, but because I trust that while we may disagree, they understand that we are all trying to do the right thing for our Nation and for our kids and our grandkids. Unfortunately, I don't have that trust in Dr. Kahl. Confirming him would create a real political challenge

for the Department over the years to come.

Every time DOD lays down a new policy or makes a critical military decision, we will have to wonder: Was this the decision informed by the Department's skilled professionals or by the partisan conspiracy theorist that happens to run the Department? That is why all 13 Republicans on the Armed Services Committee voted to reject this nominee. This is why I urge my colleagues to vote against the motion to discharge and urge President Biden to consider another nominee—one who can work productively with both sides of the aisle, even when we disagree. Mr. President, I would like to have you consider these things to make your job and my job a lot easier.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SULLIVAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SULLIVAN. Madam President, I ask unanimous consent to engage in a colloquy with my friend and colleague Senator SCOTT from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1105

Mr. SULLIVAN. Madam President, I am honored to be on the Senate floor with my colleague Senator SCOTT from the great State of Florida. We are here to talk about an issue that really matters to both Alaska and to Florida and, I would say, that actually matters to the whole country.

Let me begin by saying that, like all States, my State, the great State of Alaska, struggled through the pandemic. There were a lot of challenges. I am proud to say that, with regard to the health challenges of the pandemic, I am very honored and privileged and proud to represent a great group of Americans, my fellow Alaskans, who came together on the health side despite our huge challenges in terms of its being a giant State with a dispersed population.

We worked together, and on so many indicators of health that were directly related to the pandemic, Alaskans did very well. We were the No. 1 per capita in terms of testing throughout almost the entire pandemic. Remarkably, we have been the No. 1 State per capita in terms of vaccine distribution, which is a mini miracle, if you know Alaska, given how big it is. We had vaccines going out of snow machines, dog sleds—you name it. We were getting it out to everybody in a more efficient way than in any other State in the country and, importantly, thank God, with one of the lowest per capita death rates in the country. We are proud of that.

Yet our economy—like many but I would say almost uniquely—is getting

hammered, and people are suffering economically, first by the pandemic, of course, and now, unfortunately, by our own Federal Government. Let me just give a couple of examples.

The energy sector is very important to Alaska and very important to America, and, yes, we still need energy. Oil and gas, we need them. We have some of the greatest workers in the world in my State, but the Biden administration thinks we don't need them. It has been crushing my State with nine Executive orders directed solely at the State of Alaska to shut us down—nine by this administration. There is no State in the country that is getting that kind of attention. We don't want that attention.

Regarding commercial fishing, our State has been what I like to call the superpower of seafood. Over 60 percent of all seafood harvested in America comes from Alaska. This has been hurt by the pandemic.

The issue that we are here to talk about today is tourism, which is so important to Alaska and so important to Florida, and it is what I want to talk about with my good friend Senator SCOTT. It is about bringing relief to our fellow Americans—Floridians, Alaskans—and working to immediately pass the CRUISE Act. That is our bill, which would provide relief to coastal communities in our country—in Alaska and in Florida—and would enable a responsible return of cruise ship activities, which are so important to the small business owners in our States, whose livelihoods depend on having a robust tourism sector.

Let me just very quickly mention one thing. Alaska is open for tourism—one of the most beautiful places in the world. In fact, America, if you want to come and have a great vacation, come on up to Alaska this summer. Not only will you have an amazing experience, but we just announced 2 days ago that you can get a vaccine. Come on up. If your State is too inefficient for you to get a vaccine, have a great vacation in Alaska, and you will get a vaccine in Alaska as well. You can do both. You can see the most beautiful State in the country. You can fish, see glaciers, wildlife, climb mountains, whale watch. If you do that, it is going to help our economy and help the small businesses—fishing guides, hotels. I know Americans want to help one another. That is what we have been doing for the last year. We want you to come up, stay safe, and get a vaccine.

But here is what we need. To enable that to happen in Alaska and in other parts of the country, we need the CDC to better understand its job, its mission, and its role. This particularly relates to the issues of cruise ship passengers and the ability for cruise ship vessels to start to return to America's waters as they are doing throughout the rest of the world. In Asia, Europe, and Latin America, people are cruising safely right now, but the CDC is dragging its feet. It is dithering.

I have been meeting and my staff has been meeting with them, certainly, weekly. I have met twice with the CDC's Executive Director, but all we get is foot-dragging. All we get are excuses. All we get is guidance that is muddled, confusing, and simply unworkable.

Here is the thing: In my State, communities are dying, and no one seems to care. At the CDC, the bureaucrats there don't seem to give a damn about what Americans are suffering through right now, literally. I don't know how many times we can be on calls with them wherein we get no response. When people lose jobs and lose businesses, that has a health impact too.

Here is what our simple bill does, the CRUISE Act.

First, it will require the CDC to issue recommendations for how to mitigate the risks of COVID-19 to passengers and crew on board ships. This will be in addition to what the industry has already put forward, and there are over 70 recommendations.

Second, our bill will establish an interagency working group that will develop recommendations to facilitate the resumption of passenger cruise ship operations in the United States—in Florida and Alaska. The recommendations will facilitate the resumption of passenger cruise ship operations no later than July 4, 2021. Our bill will require the CDC, on no later than that same day, Independence Day, to revoke the order entitled "Framework for Conditional Sailing and Initial Phase COVID-19 Testing Requirements for Protection of Crew."

Our bill, finally, ensures that the HHS and CDC retain all appropriate authorities to make and enforce the regulations necessary to prevent the introduction, transmission, or spread of communicable diseases on individual cruise ships.

This is a commonsense bill. We need the CDC to continue to work with us, certainly, but to recognize that by dragging its feet, tens of thousands of Americans are going to continue to suffer when they don't have to.

We can do this responsibly. My State and the State of Florida want to do this responsibly, but we can't wait any longer. Our tourism season in Alaska is very short. Our businesses need to know that they can open again, and our citizens need help.

I yield the floor to my colleague from Florida, whose citizens are experiencing some of the same devastating impacts that my fellow Alaskans are.

The PRESIDING OFFICER. The Senator from Florida.

Mr. SCOTT of Florida. Madam President, I do want to compliment my colleague. He comes from a beautiful State. While I would like all of the tourists to come to Florida, Alaska is a great State to take a vacation. I have had the opportunity to do that a few times, and it is a beautiful State.

I thank my colleagues Senator SULLIVAN and Senator RUBIO for working

on this bill that is so important to all of our States but, for sure, Florida and Alaska.

Many States rely on the success of our ports, our cruise lines, and our maritime industries. Throughout my time as the Governor of Florida, we proudly welcomed more than 100 million visitors every year and shattered annual tourism records each year. Every visitor to our State supports small businesses, fuels job growth, and boosts tax revenue, helping to create State and local investments in the environment, transportation, public safety, and education.

And it is not just Florida and Alaska. Tourism, including our all-important cruise industry, has huge impacts for States across our Nation and the thousands of jobs that rely on its success.

On the chart you can look at this.

So, first off, the cruise industry shutdown is just killing a lot of jobs—jobs all across this country. Before the COVID-19, we had 450,000 jobs—450,000 American jobs—and \$55 billion in GDP every year in our economy.

Unfortunately, due to the suspension of cruises caused by the CDC inaction, more than 300,000 American jobs have been lost. So this is all across our country.

As we continue to work to recover from the coronavirus and get our economy back on track, I remain committed to doing everything I can to support our tourism industry in Florida, Alaska, and all across the country in a safe manner.

Unfortunately, while many sectors of the economy have been safely operating for months under CDC guidelines, Floridians and those across the Nation who rely on the cruise industry for work, continue to wait, wait, wait, wait for updated guidance from the CDC.

For months, I have heard from small business owners who have shared just all their stories about how important tourism is to them and, specifically, that the cruise industry is to their livelihood and how much the CDC's decision here has hurt them.

Let me give you an example. Omar Otero, founder and owner of VOK Protective Services, says:

As a business owner, I've been dependent on the cruise industry for my livelihood for 20 years, and this pause has been devastating. What many people don't see behind the scenes is that cruising has a significant impact on many small businesses, and employs hundreds of thousands of people in America. Resuming cruising is critical to my business and would allow me to work again and support my family.

Jeannette Pineiro, president of Cruiseport Destinations, says:

The uncertainty we've been living with the last year is probably the most devastating mentally for a business owner. I have former employees that are still unemployed. They want to get back to work, and there has been nothing I could do. The cruise industry needs to be treated on par with other sectors of the travel industry, and this legislation would provide a plan to safely resume cruise operations.

The CDC's refusal to properly address this shutdown is wrong. It is time to get the cruise lines open, and it is going to create jobs all across the country.

That is why I am proud to join my colleagues Senator SULLIVAN and Senator RUBIO in introducing the CRUISE Act, which says we are not waiting on the CDC any longer.

In March, President Biden announced the effort to vaccinate all Americans—his plan to vaccinate all Americans by July 4.

As of this week, all adults will be eligible for COVID-19 vaccines. Our Nation has made enormous progress in fighting COVID-19. Yet the CDC has continued to act like we are still in March 2020. Meanwhile, as my colleague from Alaska said, there is cruising all over the rest of the world.

My colleagues and I are simply asking the CDC to provide a timeline of when the cruise industry can begin to reopen, like so many other sectors, and the CRUISE Act ensures they can do that in a safe manner.

The CDC is treating the cruise sector unfairly, while other industries are open for business. There is no reason why America's cruise industry and the thousands of jobs that rely on its success should continue to suffer.

Cruises can and should resume, and we are going to do everything we can to bring back cruising safely.

I yield to my colleague from Alaska.

The PRESIDING OFFICER. The junior Senator from Alaska.

Mr. SULLIVAN. Madam President, as if in legislative session, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of S. 1105 and the Senate proceed to its immediate consideration. I ask unanimous consent that the bill be considered read a third time and passed, and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from Washington.

Mrs. MURRAY. Madam President, reserving the right to object, I understand the position of my colleagues from Alaska and Florida who want to see a return to cruising by July 4. I am there with them. The cruise industry in my home State supports over 5,500 jobs and creates \$900 million in annual local business revenue. Those jobs and that impact on the local economy have been severely disrupted, but we have to ensure the safety of our friends and our families on these cruises before they disembark.

We have seen firsthand how devastating COVID outbreaks on cruise ships can be. Just last year, we saw thousands of passengers stranded on cruise ships—people put in quarantine or refused entry to ports as borders closed.

Over 31 million Americans have contracted COVID, and 560,000 have died

from this disease. Cruise ships require specific focus and protocols in place to prevent future outbreaks.

While I am as eager as anyone else to see a return to travel, we cannot cut corners. Doing so risks lives and will only further delay returning to normal, hurting our economy more in the long run.

We must trust the science, and we must allow the CDC to continue its work to help us return to what we love as safely as possible.

So I will continue to work with the CDC and the administration as they develop the next phase of their cruising guidance, but for now, I object.

The PRESIDING OFFICER. Objection is heard.

The junior Senator from Alaska.

Mr. SULLIVAN. Madam President, to my colleague from Washington, whom I have the utmost respect for, it is true that at the beginning of the pandemic, there were all kinds of challenges with the cruise ship industry. There is no doubt about that. We saw that, but that was over—well over—a year ago. We didn't know anything about the virus then, we didn't have vaccines then, and we didn't see the economic devastation then. It is a very different period right now, a year later.

What we are asking for is the CDC to move. That is what our bill does.

You know, Senator MURKOWSKI and I had a meeting—our second meeting—with the CDC Director just 3 weeks ago, and in that meeting she told us that they were going to issue all the guidance for the cruise ships—issue it all so people can plan. They said that they could anticipate with this guidance that we could meet cruising opportunities to start by mid-July in Alaska. They said that with this guidance the CDC wouldn't have to be approving every move—every move going forward—and they said that they would take into consideration this huge progress we have made on vaccinating Americans.

In my State, in southeast Alaska, there are communities with 60, 70, 80 percent vaccination rates. That is where these cruise ships are going to be going.

The unfortunate thing is that not one thing the Director of the CDC told us turned out to be true. That is not good. Her staff or somebody in the CDC needs to be held responsible for telling us something that was not true at all.

Again, what is happening right now is an economic and health devastation. In my State, the estimates are up to \$3 billion worth of damage just in Alaska alone because of the foot-dragging, mixed messages, and unresponsiveness when it comes to the CDC's guidance.

As my friend from Florida just mentioned, airlines, schools, hospitals, and hotels have all gotten CDC guidance and have been able to open. But for some reason, they are focused on this industry, which negatively impacts thousands of small businesses across America, in Florida and Alaska. And I

certainly hope that the CDC, seeing that we are trying to move this—and it is a bipartisan issue, by the way—will start to do its job—will start to do its job and make the commitment that was made to me and other Senators to get this moving quickly in terms of guidance so we can be having tourism, cruise ships, and otherwise in America by mid-July. That is what I was told by the Director 3 weeks ago. They need to keep that commitment.

I yield to my good friend from Florida.

The PRESIDING OFFICER. The junior Senator from Florida.

Mr. SCOTT of Florida. Madam President, well, I am clearly disappointed that my colleague from Washington would object to this commonsense proposal.

The cruise industry impacts thousands of jobs, not just in Florida and not just in Alaska but in the State of Washington. Everybody here I know wants to make sure that we can start cruising again in a safe manner.

Let's remember what my colleague was talking about. She was talking about what was going on in March and April in 2020. But today, hotels are open, airlines are flying, beaches are open, restaurants are open, tourism sites are open, and amusement parks are open. They are all open, but for whatever reason, the CDC has made the decision to not allow cruising to happen, and they have singled out this industry and cannot tell any of us why they singled this out.

All we are asking is for the CDC to provide a timeline of when the cruise industry can begin to reopen. The cruise industry wants to do it safely. It is a lot of American jobs, including—I think it is—23,000 jobs and a billion dollars in economic impact in the State of Washington.

So I know everybody says they want to get this done, but the only way this is going to happen is if we make sure that we force the CDC to finally make a decision and allow the cruise industry to get open again in a safe manner.

The PRESIDING OFFICER. The Senator from Arkansas.

NOMINATION OF COLIN HACKETT KAHL

Mr. COTTON. Madam President, Colin Kahl is President Biden's nominee to be the Under Secretary of Defense for Policy. This is the top strategic planning position at the Department of Defense—the No. 3 position at our Department of Defense. The role is critically important to the national security of our country and the safety of our allies around the world.

Unfortunately, Mr. Kahl is temperamentally and professionally unfit to hold this—or, for that matter, virtually any other—job at the Pentagon. He is impulsive, intemperate, offensive, and has consistently demonstrated terrible judgment.

For the past several years, Mr. Kahl has endeavored, for some inexplicable reason, to be something of a Twitter celebrity—not exactly aiming his

sights high. In pursuit of this goal, he has personally attacked the character and reputation of virtually every Republican Senator, as well, I would say, with lots of Democratic Senators.

He has tweeted that Members of both parties who supported the withdrawal from the terrible Iran nuclear deal “won't be satisfied until they get the war they pushed for decades.”

He wrote that 45 Senators who supported weapon sales to Saudi Arabia share “ownership of the world's worst humanitarian crisis.” This claim, in which he referred to the war in Yemen, of course, ignores the role of Iran's murderous, terrorist proxies, something, of course, that Colin Kahl repeatedly turns a blind eye to everywhere in the world—Iran's evil malignancy.

On a separate occasion, Mr. Kahl said that every Republican who supported an end to combat operations in Syria “debased themselves at the altar of Trump.” He then added that the party of Lincoln is “the party of ethnic cleansing.” Let's let that sink in for a moment.

Joe Biden has nominated a man to be the No. 3 official at our Department of Defense who has accused one of the two main political parties in our country as being “the party of ethnic cleansing.” It is hard to imagine an uglier or more vicious accusation than that.

Perhaps Mr. Kahl could ask Bill Clinton and Susan Rice, on whose watch the ethnic cleansing in Rwanda happened.

When John Bolton was about to become the National Security Advisor, Mr. Kahl, quite reasonably, stated on social media: “We are going to die.”

To my knowledge, we are not dead, and Mr. Kahl is very much alive, despite John Bolton being appointed as a staffer in the U.S. Government. He also claimed that the Republican Party had a “death cult fealty” to former President Trump. These statements and many more make it difficult to conceive of a circumstance in which this nominee could successfully forge a productive relationship with Members of the Republican Party in the Senate or the House or anywhere else, for that matter.

Mr. Kahl's ranting and raving on social media in 2017 may have even gone from offensive to criminal on several occasions. It appears that several of Mr. Kahl's tweets divulge or confirm classified and sensitive information. I recently joined 17 of my fellow Senators in requesting a full FBI investigation into this very serious and troubling matter. No vote should occur until that important inquiry takes place.

Now, the nominee's transgressions on social media are somewhat reminiscent of Neera Tanden's foolish statements on that social media platform. I think this Chamber set a reasonable standard when it rightfully rejected her nomination, and we ought to maintain that standard with this nominee.

In many ways, though, Mr. Kahl's behavior is worse than Ms. Tanden's because his poisonous partisanship, his narrow-sightedness, and his short temper will directly affect his job. He is up for a post that is less partisan and more cooperative in nature than was Ms. Tanden's. His position will require him to be under extreme stress, where he will need to listen to a full range of options, engage in careful deliberation, and regularly make life-and-death decisions. I have to say, his auditions as a social media celebrity over the last 5 years don't inspire confidence in his ability to do so.

When I asked him about this at his hearing, he said he may have gotten caught up in the passions of the moment or that these were stressful, trying times. Some of these social media statements, I would point out, came in the middle of the night when Mr. Kahl was presumably sitting on his couch at home watching his news feed. If he thinks that is a stressful or trying moment, what is he going to do when he is sitting in the Pentagon and Vladimir Putin is invading southern Ukraine?

Talking about foreign policy decisions, I would point out that Mr. Kahl has been like Joe Biden—wrong about nearly every important foreign policy decision over the last decade. In 2010, Mr. Kahl said that concerns about a rapid withdrawal from Iraq were “exaggerated” and it was “very unlikely to trigger a dramatic uptick in violence.” He missed that one by just a little bit because soon thereafter, 30,000 radical Islamic extremists conquered a quarter of Iraq, and ISIS carried out horrific terrorist attacks on multiple continents.

In 2012, he ridiculed then-Candidate MITT ROMNEY's, now-Senator MITT ROMNEY's assertion that Russia was a major geopolitical threat. Of course, 2 years later, Russia invaded Ukraine and conquered Crimea. It has since been an obsession of the Democratic Party, even though Joe Biden has once again reverted to the Democrats' traditional dovishness on Russia, something presumably Mr. Kahl would support.

In 2017, he predicted that recognizing Jerusalem as the capital of Israel, where the seat of Israel's Government is located, would result in a “third Intifada.” Instead, Israel has signed multiple historic peace deals.

In 2018, when President Trump warned Iran against pursuing nuclear weapons, Mr. Kahl wrote the “war drums are already sounding.” But no war happened.

That same year, when President Trump withdrew from the terrible Iran nuclear deal, Mr. Kahl said: “War will be all that is left.” No war happened.

In 2020, when the United States finally delivered justice by killing Iran's terrorist mastermind Qasam Soleimani, Mr. Kahl said Mr. Trump had “started a war with Iran in Iraq.” Yet again, no war happened.

Mr. Kahl's inability to accurately assess these events almost defies prob-

ability. After all, even a broken clock is right twice a day.

On issues of war and peace, Mr. Kahl is reliably unreliable and consistently wrong. This is not a fault that one of the chief strategic planners, the No. 3 official at the Pentagon, and one of the most powerful policy advisers in the government ought to have. No Pentagon nominee should be this partisan, this divisive, and this controversial.

Republicans have given every Defense Department and intelligence nominee a fair hearing, and most have passed this Chamber with healthy bipartisan majorities and in some cases unanimously. Mr. Kahl is different. Mr. Kahl is different because his toxic statements and reputation would inhibit the workings of the Department of Defense.

Every time, as Secretary Austin and senior Pentagon personnel testify before the Senate, Members of this body will wonder if the policies they are presented with are the product of hard-headed serious planning or the workings of a political hack.

A man of Mr. Kahl's judgment and temperament and his record of disastrous policy judgments is unfit to be the Under Secretary of Defense for Policy, and I will oppose his nomination, as every Senator should.

I yield the floor.

The PRESIDING OFFICER (Mr. HICKENLOOPER). The Senator from Alabama.

Mr. TUBERVILLE. Mr. President, you know, the Under Secretary of Defense for Policy serves as the national security advisor to the Secretary of Defense. This position requires even temperament, sound judgment, and a willingness to work with both sides of the aisle to protect and advance our national security.

As many of my colleagues have noted, President Biden's nominee for this important position severely lacks these qualities.

Colin Kahl has promoted conspiracy theories on social media. He makes outrageous claims against those who disagree with him, like when he called Republicans “the party of ethnic cleansing.” And he views the threats of our Nation solely through the lens of partisan politics.

Dr. Kahl blatantly downplayed the threat of Russia when our colleague MITT ROMNEY highlighted it during the 2012 Presidential campaign but then promoted numerous lies about President Trump and Russia after the 2016 election. This is not—and I repeat—not the kind of person who should serve in the Pentagon's No. 3 position.

But today I want to address another issue. Dr. Kahl presents himself as an academic, but he often makes claims that are not grounded in data. That is especially true when it comes to the situation along our southern border.

As everybody knows, the illegal migration crisis is not new. As of 2017, according to the Pew Research Center, there were an estimated 10.5 million

unauthorized immigrants in this country. And according to Pew, over 77 percent of those unauthorized immigrants came from within the Western Hemisphere. President Trump came into office in 2017 promising to do something about this challenge: enforce our immigration laws and reinforce southern security along our border. Dr. Kahl disagreed with his policy, and that is certainly his right, but rather than explain why he disagreed, he promoted baseless lies.

In October 2018, a migrant caravan surged toward our southwestern border. President Trump deployed approximately 5,000 U.S. members of our service to support the Department of Homeland Security at the border. This was not, as some in the media claimed, a “show of force.” This was the defense support to civil authority's mission, the type of mission that the DOD also does to support FEMA during hurricanes.

Dr. Kahl has served previously at the Pentagon. He has served as National Security Advisor to the Vice President. He knows what defense support to civil authority is and what these missions entail. But rather than explain any of this to his many thousands of Twitter followers, Dr. Kahl told them that the deployment was a “stunt.” This was a terrible insult to the men and women in uniform who were supporting DHS at the time. But more to the point, it was also a blatant lie.

A few months later, Dr. Kahl called the situation at the border a “fake crisis” and also tweeted that “Trump's claims of a border crisis are bogus.”

To justify his claims, Kahl cited data showing a decrease in arrests at the southern border. But there was one problem with his data: arrests along the border always decline when border enforcement is lax.

Well, as we know, President Trump stepped up enforcement at the border, and it worked. As a result, arrests at the border surged through the first half of 2019. More border security means more arrests, but it also deters future illegal migrants, and that is why illegal border crossings fell dramatically in the second half of 2019.

Far from being a “fake crisis,” as Dr. Kahl would have it, this was a crisis that was not being properly addressed until President Trump took action. Today, we have another crisis at the border. We have seen a record number of illegal crossings and arrests in recent months as illegal migrants anticipate a more welcoming environment under President Biden's administration.

The Biden administration has made detrimental changes to our border policy, including ending the “Remain in Mexico” policy. But it is worth noting what has not changed: U.S. troops are still deployed in support of DHS along the border. They are still there. Anyone who has taken the time to visit our southern border, as I was there just a few weeks ago, understands that if our

troops were not in this region, the crisis at the border would only grow worse.

Colin Kahl saw the deployment as a “stunt” under President Trump. I suspect he sees it a little differently under President Biden. And that is exactly the problem: Colin Kahl’s judgment is often based on partisan politics, not data.

We cannot accept the risk of having someone so partisan in the Defense Department’s No. 3 position. This position requires someone who bases his recommendations on data and not on the top trending hashtag. I urge my colleagues to vote against the motion to discharge.

Let Colin Kahl keep tweeting and let the administration send us another nominee.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO CHRIS MAIER

Mr. WYDEN. Mr. President, I rise today, on behalf of Oregonians in every nook and cranny of our wonderful State, to thank my friend Chris Maier for more than three decades of stellar public service.

Chris is retiring this month as a superhero who has been cutting through redtape and defeating bureaucracy for so many Oregonians who turned to her nights and weekends and all hours. She helped with emergency immigration and State Department needs, passports, visas, immigration questions, and so much more.

As a casework manager and constituent services representative in my office for more than a decade, Chris brought an unfailing professionalism, determined follow-through, and “Oregon Way” focus on smart solutions when tackling all of those duties.

Chris came to our Portland office in 2009, after a decade of working for my friend Senator Gordon Smith. Before that, she had worked a total of 11 years in the offices of Senator Mark Hatfield, Congressman Denny Smith, and State Representative Chuck Carpenter. If those names that I just mentioned were an answer on jeopardy, the question would be: Who are four prominent elected Republicans in Oregon history?

The Senate heard that one right. Chris is retiring after a career of working for elected officials from both political parties. On one level, she worked for all of us as elected officials, but on a larger level, she worked for everybody in Oregon, regardless of their politics. And on that larger level, Chris epitomizes so many other public servants in Oregon and our country whose names just never get celebrated in headlines or tweets or news coverage.

The word “bipartisan” gets tossed around a lot, but Chris lived that ethos every single day of her public service career. When she was responding to the uncounted number of calls and email inquiries she got over the years, she never said: So tell me a little bit about your politics. Her response was always: How can I help? And she always applied her common sense and the deep reservoir of good will she earned nationwide to move the levers of government quickly and successfully. And as I alluded to at the outset, those queries and her responses never corresponded to an 8-to-5 schedule because she was always on the phone to a U.S. Embassy somewhere thousands of miles away.

Chris’s duties went into overdrive in the first few weeks this past year during COVID. Oregon parents called Chris frantic to get their kids home from overseas study programs. Oregon families and friends would email Chris desperate for information about family members abroad on travel that they had saved a lifetime for. And we had businesses from all over Oregon text Chris about their U.S. employees who were working in other countries.

On the other end of all of those calls, emails, and texts was Chris Maier, always responding with her experience and empathy to figure out solutions. I can’t even begin to calculate the number of times Oregonians would come up to me in our iconic “Fred Meyer” stories, and they would say: RON, let me tell you about how Chris Maier went to bat for me and my family.

So today we are very grateful for her “Chris Maier” brand of tenacity with a smile, because she was steering so many Oregonians through the unprecedented trials of the past year.

I have been thinking about all the challenges she has been helping Oregonians with over her entire career, and she was helping all those people when she was in our office every single day, bringing relentless good cheer, an overflowing candy bowl, and a love bordering on obsession for University of Oregon football. We Ducks take our football seriously, but certainly nobody more than Chris Maier.

I am going to close with a final thought as I send Chris off to a very well-earned retirement with her husband Brad and their daughter Katherine, back home on the east side of my hometown, Portland. As Chris’s fellow Oregon football fans know, the pregame pageantry at home games in Eugene always included the tradition of one joyful shout in unison: “It never rains in Autzen Stadium.”

If I may paraphrase that thought today in talking about my friend. Her optimistic outlook and legacy of success means that all of us are joyful because “It never rains in Chris Maier’s world.”

So, Chris, on behalf of Oregonians and communities small and large, we are so grateful for all the time you went to bat for the people of our State and for the people of this country. For that we say thank you.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MANCHIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

FIGHT FENTANYL ACT

Mr. MANCHIN. Mr. President, I rise today to call on my colleagues on both sides of the aisle to join Senator PORTMAN and myself—and Senator PORTMAN will come in later and express his desire for this also—in taking action to permanently schedule fentanyl and deadly fentanyl analogs.

Fentanyl is 100 times more potent than morphine, 50 times more potent than heroin, and according to the DEA, 2 milligrams—just 2 milligrams—of fentanyl can cause a lethal overdose.

In February 2018, the Drug Enforcement Administration issued a temporary scheduling order to schedule fentanyl-related substances, which has allowed Federal law enforcement authorities to bring criminal actions against individuals who manufacture, distribute, or handle fentanyl-related substances.

A year ago, this body extended the scheduling order through May 6, 2021, via unanimous consent. The House extended it by a vote of 320 to 88. This should not be controversial at all.

In 2019, 36,359 people died because of fentanyl. That is 51 percent of all overdose deaths that year—51 percent. Over half of the people who were killed by overdose were by fentanyl. We know 2020 was a record year in drug overdoses, mainly driven by fentanyl-related substances and the COVID-19 pandemic. We can safely assume that there were at least 44,000 deaths last year—think about that—44,000 deaths related to fentanyl last year. In total, that is over 80,000 people who have died because of fentanyl in just the last 2 years. It is heartbreaking to lose so many Americans to preventable overdoses.

The time to permanently schedule this deadly substance is now. That is why Senator PORTMAN and I reintroduced the bipartisan FIGHT Fentanyl Act to permanently schedule fentanyl and fentanyl analogs. I am saying permanently schedule fentanyl and fentanyl analogs.

The FIGHT Fentanyl Act is a proactive overdose prevention bill. It stops the creation of these drugs and removes incentives for people to bring these deadly chemicals into our country, reducing the harm to our fellow Americans.

We know that fentanyl is deadly. It is killing Americans at record rates. West Virginia, my home State, has the highest overdose rates per capita in the Nation, and every West Virginian is familiar with the horrible impacts of the

drug epidemic on our family, friends, neighbors, and our entire economy.

I recognize there are concerns about mandatory minimums that do more harm than good. But permanently scheduling fentanyl and fentanyl analogs is not about locking people up; it is about keeping our fellow Americans alive.

Don't take my word for it. We asked the GAO to study it—the General Accounting Office to study it. In the last 3 years since the rescheduling was put in place, the GAO found only eight prosecutions occurred related to fentanyl analogs, four of which were associated with drug cartels. If that is not enough, our bill also explicitly prohibits new mandatory minimums associated with fentanyl analogs.

Here are the facts: 80,000 deaths compared to 8 prosecutions—80,000 deaths compared to 8 prosecutions.

Here is another fact: We simply don't have the support in Congress today to pass the FIGHT Fentanyl Act right now. It is hard to believe. We must pass another short-term extension this week to ensure the essential temporary protection does not lapse. I hope my colleagues will at least support that effort.

I also urge my colleagues, Democrats and Republicans, to join Senator PORTMAN and me in this effort to permanently reschedule this deadly, deadly drug. We cannot afford to keep kicking the can down the road as we have for far too long.

Thank you, Madam President.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. SMITH). The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. PORTMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PORTMAN. Madam President, my friend and colleague Senator MANCHIN from West Virginia and I are on the floor today to talk about this issue of fentanyl.

This is a deadly synthetic opioid that is killing more people in our States than any other single drug. Unbelievably, Congress has only 15 days to act, and if we don't, some of these illegal fentanyl products are going to be legal again. This is exactly the wrong thing for us to do right now as, sadly, we are seeing a big increase in overdoses and overdose deaths because of the effects of the coronavirus pandemic.

We want to have bipartisan legislation that we have introduced, passed, that simply says: Let's not allow these illicitly manufactured and deadly synthetic opioids to suddenly become legal again.

If we don't act within 15 days, that will happen. Our bill would ensure that these deadly drugs continued to be scheduled—that is the technical term—scheduled by the Drug Enforcement Agency, meaning they would continue to be illegal.

Here is why we have to act. Fentanyl, a synthetic opioid, is more than 15 times more powerful than heroin, and it is incredibly addictive. For years, this has been coming to our shores from China, almost all of it through the mail until recently because we, frankly, passed legislation to cut down on mail deliveries, and instead, now much is coming through Mexico, across our southwest border.

It is a big reason overdose deaths in the United States surged to record highs during this COVID-19 pandemic, with more than 87,000 Americans—think about that—87,000 Americans died during the 12-month period between September 2019 and September 2020. That is a record. It is a terrible record.

When we have the actual numbers from 2020, it is going to be even worse. We just got these numbers from September 2019 until September 2020. When we have the numbers from January 2020 through December 2020, it will be even worse. That is what everybody says, and it makes sense. When you look at this data, the worst months are the months during the pandemic in 2020.

Again, we are very sadly, after several years of progress, looking at once again an increase in these overdose deaths. According to the Centers for Disease Control and Prevention, CDC, synthetic opioids like fentanyl are the biggest drivers of this tragic surge. We can project that more than half of these deaths are from this class of drug based on what we know from the 2019 data. That is the latest information we have. In 2019, there were 70,630 deaths, and more than half of those—36,359—involved fentanyl. Experts believe that fentanyl, sometimes mixed with other drugs like cocaine or crystal meth or sometimes heroin, continues to be the No. 1 killer.

It is such an enormous crisis because these drugs are so incredibly dangerous. It takes only 2 milligrams of fentanyl to kill an adult, which is why the DEA, Drug Enforcement Administration, permanently classified fentanyl as a schedule II drug.

In order to avoid prosecution, drug traffickers started making slight modifications to fentanyl. You have some evil scientist in China or in Mexico who makes a slight modification to fentanyl, sometimes adjusting a single molecule and creating what are called fentanyl analogs. In other words, it is not precisely pure fentanyl, and so unfortunately, although it has the same narcotic properties as fentanyl, these tiny variations allow these traffickers and these scientists to evade prosecution. Oftentimes, by the way, these analogs, like carfentanyl, are even more deadly, believe it or not, than fentanyl itself.

In response, in 2018, the DEA temporarily scheduled fentanyl analogs, but under law, that designation expires after May 6—again, only 15 days from now. If that deadline lapses, evil sci-

entists and criminals who run labs in China and Mexico will be able to avoid law enforcement as they flood the United States with unlimited slight variations of this deadly drug.

That is why Senator MANCHIN and I are calling on Congress to do the sensible thing: Pass the FIGHT Fentanyl Act to make these dangerous substances permanently illegal. That is what law enforcement wants, that is what our communities demand, and that is what we deserve to give them. It is long overdue that we make this designation permanent.

China, by the way, implemented classwide controls over fentanyl analogs in 2019. China's law defines fentanyl-related substances more broadly than the U.S. Government defines fentanyl-related substances. How ironic. Here is China, a country sending us this poison and actually making these drugs illegal in China, and they are not illegal here. How could that be?

I know some colleagues oppose permanent scheduling of these fentanyl drugs because they are concerned about mandatory minimum sentences and also that it could hinder research into future medications to treat addiction. Let me address both of those.

First, I share this concern about the harsh punishments that don't fit the nature of the crime. That is why our legislation ensures that mandatory minimum sentences are not automatically imposed. In any criminal case, we want the judge to look at the severity of the crime and consider all relevant factors in sentencing. So that issue is addressed.

There has been a great deal of conversation about the impact of prosecutions and incarcerations on specific populations, including minority communities, but what is often lost in this debate is the growing impact of fatal overdoses in these same communities.

Since 2016, while White fatalities decreased through 2019—the data we have—overdoses from opioids among Black Americans, particularly Black men, have actually accelerated. From 2011 to 2016, Black Americans had the highest increase in synthetic opioid-involved overdose death rates compared to all populations. So it is getting worse, not better, in these same minority communities.

While from 2017 to 2018, overall opioid-involved overdose fatalities decreased—remember we were making progress for the last several years. Overall, it decreased by just over 4 percent. Rates among Black and Hispanic Americans actually increased.

Another issue my colleagues have raised, again, is concern that permanently scheduled fentanyl and its analogs somehow hinders research in treating addiction. First of all, I agree that we need this research and need it badly. One example of this is coming up with naloxone, a miracle drug based on heroin that actually reverses the effects of overdose. It is a miracle. I have seen it work, and it saves lives.

Researchers have told me there are barriers to being approved to legally research schedule I substances. There is also a stigma to conducting this kind of research even though we know that it could lead to development of new treatments. I am open to working with colleagues to address these barriers, and I believe we can do that through legislation creating flexibility in the registration system for scientists. But we cannot let these deadly fentanyl drugs become legal in the meantime, and certainly we can't allow this to happen in the next 15 days.

Just before we came to the floor this afternoon, the House of Representatives passed a temporary measure. It is a 5-month extension of the ability to schedule these deadly drugs. Why would we do it for just 5 months? Let's do it permanently.

Now I am told: Well, we have a take-it-or-leave-it from the House. I hope that is not the case. If so, of course I will be for extending it rather than having it expire in 15 days. But let's act. Let's act responsibly. Let's act now.

The U.S. Senate should be taking the lead here in saying let's permanently classify these drugs, as everybody agrees they should be classified in the sense that they are dangerous narcotics that are killing literally tens of thousands of our fellow citizens every year.

Let's do the right thing for those communities. Let's do the right thing for law enforcement. Let's be sure they have the predictability and certainty in law enforcement to know that they can prosecute these criminals—these traffickers. We need to act now to address the threat of these deadly fentanyl drugs coming into our communities, and I urge the Senate to pass the FIGHT Fentanyl Act this week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

NOMINATION OF COLIN HACKETT KAHL

Ms. ERNST. Madam President, I rise to speak in opposition to the nomination of Mr. Colin Kahl to be Under Secretary of Defense for Policy.

The position of Under Secretary of Defense for Policy is essentially the third most senior leadership position in the Department of Defense. It requires a leader of tremendous experience and knowledge, someone with the ability to separate politics from policy. With the many national security challenges our Nation and the Pentagon face, this position requires a measured, rational, and deliberate leader. It needs a leader who puts the safety and security of the American people ahead of scoring one more point on the political board. The head of policy at the Pentagon needs to be someone we as a country can trust with some of our most delicate secrets. The reality is, Mr. Kahl does not meet the standard for this position.

Secretary of Defense Austin and his Deputy, Dr. Kathleen Hicks, have affirmed before the Senate what the na-

tional defense strategy articulated: The most pressing strategic challenge facing our country is Communist China. We know the threat from China is long-lasting and very serious. The complex actions and efforts of the CCP are disrupting the global order and reducing our national security. These actions demand expertise in the development and leadership of our national defense.

When it comes to President Biden's pick for the head of defense policy, Mr. Kahl—well, Mr. Kahl lacks any meaningful experience and has only a sparse record of thought on China or anything in the broader Indo-Pacific region, for that matter. The United States cannot afford this lack of knowledge and experience in a top Pentagon official.

Now, folks, we can also look to his judgment as a matter of concern. Mr. Kahl has a record of leniency toward Iran—the world's leading state sponsor of terrorism—and belligerence to Israel.

On Iran, I would note that this administration is already not taking seriously the threat Tehran poses. Iran flagrantly continues to enrich its uranium and inch closer and closer to obtaining a nuclear weapon. We, the American people, cannot afford for this administration to play footsie with Iran and kowtow to its demands of sanctions relief.

Based on Kahl's record, he would be one more advocate at the table pushing to get the United States back into the failed Iran nuclear agreement. Frankly, when it comes to Iran and Israel, Mr. Kahl couldn't be more wrong in his understanding of who our friends are and who the real threats to America are.

If I am honest, I am deeply dismayed that we are even to this point in consideration. The Under Secretary of Defense for Policy must be a steadfast, measured, and discreet public official. Mr. Kahl has proven to be the complete opposite. He is brash and unserious in his public rhetoric. In fact, he has called Republicans “the party of ethnic cleansing,” and he played the role of Chicken Little in claiming “we are all going to die” if one former White House adviser were replaced for another. His hysterical—yes, hysterical—public comments may have even compromised classified information.

That is why I have joined with many of my colleagues in calling for an FBI investigation of his handling of classified information. In having led troops overseas during Operation Iraqi Freedom—serving in our military for over 23 years—I believe our servicemembers deserve someone who will take a serious, nonpartisan outlook to policy, apply measured thought to his actions, and real, qualifying experience to a most critical job.

Mr. Kahl is far from meeting that standard. I strongly, strongly oppose his nomination and urge my colleagues on both sides of the aisle to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. HAGERTY. Madam President, I rise today to discuss my serious concerns about the judgment and the temperament of the nominee Colin Kahl, the controversial nominee to be the Under Secretary of Defense for Policy, the third highest position in our Department of Defense.

On April 13, 2021, I, along with 17 other Senators, wrote to FBI Director Christopher Wray requesting an investigation into whether Kahl had improperly disclosed classified information. We also asked the majority leader not to advance Kahl's nomination to the floor until the FBI completes its investigation. Yet here we stand.

The 18 Senators who signed these letters include Senators who sit on the Senate Judiciary Committee, the Senate Intelligence Committee, and the Senate Armed Services Committee.

As Senators, the Constitution charges us with providing advice and consent, and so I stand here today because the Senate deserves to have these questions answered so that we may properly discharge our duties.

I fear my Democratic colleagues want to force this nominee through before we know all the facts—facts which may be incredibly damning to his nomination.

Here is what we do know. As a U.S. Government employee with a Top Secret security clearance, Colin Kahl signed a classified information non-disclosure agreement. In fact, he likely signed many of them during his tenure in government. This document binds government employees in perpetuity to protect classified information under U.S. laws, regulations, and Executive orders.

These classified information non-disclosure agreements don't come with footnotes. They don't come with fine print that says you are only obligated to protect classified information when it is a President you like or when it is a President that belongs to the political party you agree with.

Mr. Kahl signed this document to protect classified information in perpetuity, period. Rather than uphold the oath that he took to his Nation and to his government, Kahl decided to recklessly disclose sensitive information to secure political points on Twitter.

Some of the information that Kahl appears to have leaked—internal deliberations of the National Security Council—is of a category that even Senators and Senate staff with the highest security clearances are almost always denied access.

In December of 2017, Kahl publicly bragged that he confirmed the disclosure to the media of classified planning for military operations in North Korea with “multiple sources inside the Administration.”

You can see right here his tweet:

There is a contingent at the White House that believes a limited strike is viable and

the US can control escalation by threatening regime change if Kim Jong Un retaliates.

This is incredible.

Continuing on that same thread, he says:

I've heard this separately from multiple sources inside the Administration.

In other words, if the intelligence services of North Korea, China, Russia, Iran, and other adversaries were working to corroborate the accuracy of this leaked information, Kahl saved them the trouble by working with "multiple sources inside the Administration" to confirm this leaked classified information, publicly, no less.

Let me put this in a personal perspective. When Kahl tweeted these leaks in December of 2017, I was serving as U.S. Ambassador to Japan. This was at a time when North Korea had launched two intercontinental ballistic missiles over Japan, and they had also detonated a thermonuclear warhead, putting the lives of my family, my fellow American diplomats, and more than 50,000 Active-Duty U.S. military and their families—all of us living within range of North Korea—in harm's way.

At a time when tensions couldn't have been higher, Colin Kahl was willing to expose vital information to North Korea and risk American lives—all of this just to score political points. Reckless, I say.

In February and March of 2017, Kahl leaked details about a classified National Security Council meeting on counterterrorism operations in Yemen that he "confirmed with 4 separate staffers in the room."

Here is his message, talking about Yemen, quoting the Deputy National Security Advisor, K.T. McFarland, saying "saddle up."

The existence of this meeting should have been classified and certainly anything that was said during this meeting. Here it is on Twitter.

Then he follows up by saying he has "confirmed with 4 separate staffers in the room."

In short, Kahl used social media and other forums to leak classified information to brag about his ability to get U.S. Government employees to confirm with him the veracity of leaked classified information.

Whoever holds the third highest position at DOD must be someone who completely understands and appreciates the important nature of sensitive information and is dedicated to safeguarding it.

Yet rather than respect the responsibility that came with his access to sensitive material, Kahl recklessly shared this privileged information on Twitter for the world to see, merely to scratch political, partisan itch.

If we let this nominee slide through under these conditions, what message does it send to other ambitious national security types? Doesn't it say that leaking classified information for political reasons will be rewarded? Doesn't it encourage further disclosure

of classified information? Doesn't it play right into our adversaries' hands by showing that our internal political divisions can be exploited to obtain the most sensitive information that our government keeps?

My Senate colleagues and I explained in our letter to FBI Director Wray:

The Under Secretary of Defense for Policy plays a key role in matters crucial to America's national security and should be held by a person of sound judgment and temperament—someone who understands and respects the need to safeguard classified information and to keep national security affairs distinct and separate from partisan political activities."

Kahl's growing record of apparent mishandling of classified information and his evasive response regarding this issue fall far short of the standards required for holding one of our nation's top national security positions.

By apparently soliciting or otherwise receiving classified information from U.S. government officials serving in national security roles and repeatedly posting such information on social media . . . Kahl demonstrated disregard for security protocols that are designed to protect our national security interests.

Kahl has shown that he is unfit to serve and his nomination should not move forward until the FBI has completed the investigation requested by me and 17 of my Senate colleagues.

I hope that all of my colleagues want to see answers to these important questions, as well, before we begin to advance his nomination.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION

Mr. REED. Madam President, I would yield back all time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to discharge.

Mr. REED. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 50, nays 50, as follows:

[Rollcall Vote No. 161 Ex.]

YEAS—50

Baldwin	Duckworth	Klobuchar
Bennet	Durbin	Leahy
Blumenthal	Feinstein	Lujan
Booker	Gillibrand	Manchin
Brown	Hassan	Markey
Cantwell	Heinrich	Menendez
Cardin	Hickenlooper	Merkley
Carper	Hirono	Murphy
Casey	Kaine	Murray
Coons	Kelly	Ossoff
Cortez Masto	King	Padilla

Peters
Reed
Rosen
Sanders
Schatz
Schumer

Shaheen
Sinema
Smith
Stabenow
Tester
Van Hollen

Warner
Warnock
Warren
Whitehouse
Wyden

NAYS—50

Barrasso	Graham	Portman
Blackburn	Grassley	Risch
Blunt	Hagerty	Romney
Boozman	Hawley	Rounds
Braun	Hoehn	Rubio
Burr	Hyde-Smith	Sasse
Capito	Inhofe	Scott (FL)
Cassidy	Johnson	Scott (SC)
Collins	Kennedy	Shelby
Cornyn	Lankford	Sullivan
Cotton	Lee	Thune
Cramer	Lummis	Tillis
Crapo	Marshall	Toomey
Cruz	McConnell	Tuberville
Daines	Moran	Wicker
Ernst	Murkowski	Young
Fischer	Paul	

(Mr. HICKENLOOPER assumed the Chair.)

The VICE PRESIDENT. On this vote, the yeas are 50, the nays are 50. The Senate, being equally divided, the Vice President votes in the affirmative, and the motion is agreed to.

Pursuant to S. Res. 27 and the motion to discharge having been agreed to, the nomination will be placed on the Executive Calendar.

Thank you.

The PRESIDING OFFICER (Mr. KELLY). The Senator from Ohio.

INFRASTRUCTURE

Mr. PORTMAN. Mr. President, I welcome the Vice President, the President of the Senate, to our Chamber this evening.

I am here this evening to discuss the infrastructure plan that has been proposed by President Biden and the plan along with it for massive tax increases.

The Biden infrastructure plan totals a massive \$2.3 trillion, but only about 20 percent of it actually goes towards funding anything that Members of either party have ever considered infrastructure. I support more infrastructure investment, as do, I believe, most if not all of my colleagues on both sides of the aisle.

The question is, What is infrastructure, and how do you pay for it? Roads and bridges, as an example in this proposal, are only about 5 percent of the plan. In fact, it provides more money for long-term care than it does for roads and bridges, more money for electric cars than it does for roads and bridges, and more money for schools and daycare than it does for roads and bridges. Many of these noninfrastructure ideas are worthy ones, and they should be debated and they should be considered but not as part of a self-described infrastructure bill, in part because the funding sources should be very different.

The price tag, \$2.3 trillion—soon to be \$2.7 trillion, we are told—and also the scope of the bill are bad enough, but what I want to talk about tonight is the equally concerning way the Biden administration plans to pay for this massive new legislation. They want to pay for the bulk of it by completely reversing the progress we made

over the past few years in making America competitive again and making our workers competitive again.

In the 2 years before COVID-19, we saw record growth in jobs and wages, in large part thanks to the pro-growth policies we put in place through the 2017 tax cuts and reforms. The non-partisan Congressional Budget Office has found that 70 percent of the savings from the 2017 corporate tax cuts went into workers' wages. Seventy percent, they say, went into workers' pockets. It is one reason that, leading up to the pandemic in February, a year and a couple of months ago, we had the 19th straight month—19th straight month—of wage growth of 3 percent or more annually. That was great news in my home State of Ohio. We hadn't had wage growth like that in over a decade, maybe two decades. Most of that benefit, by the way, went to middle and lower income workers—exactly what you want.

During that time period a couple of years before the pandemic hit, we tied the 50-year low in unemployment at 3.5 percent and had the lowest unemployment ever for Blacks and Hispanics. In fact, before the pandemic, we had reached the lowest poverty rate—10.5 percent—since we started recording this data back in 1959. It was the lowest poverty rate on record.

Importantly, tax reform also stopped these corporate inversions. You will remember this. Companies were actually becoming foreign companies so they could get from under our Tax Code. This made no sense. It was happening during the Obama administration and during the first year of the Trump administration. We also ended the so-called lockout effect, caused by a Tax Code that made it too expensive to bring foreign earnings back home. So people kept their earnings overseas. In fact, during those couple of years, the \$1.6 trillion in overseas earnings has now come back home to invest and create jobs here—\$1.6 trillion. We want that money here.

As a result of those changes, the largest U.S. companies increased domestic research and development spending by 25 percent to \$707 billion, and capital expenditures went up by 20 percent to \$1.4 trillion. The Biden plan would throw all of that positive progress out. It would change our competitiveness to put us back where we were before or worse.

The administration's corporate tax increase raises the combined Federal and State corporate rates from an average of 25.8 percent to 32.8 percent. It would put us, again, as having the highest rate in the developed world. These tax hikes, by the way, when you include the international tax hikes, are actually five times as large as the corresponding cuts in 2017, based on the analysis that has been done. By the way, this would also, of course, give us not just the highest tax rate among the developed countries but also a far higher tax rate than countries like China with whom we are trying to compete.

It also changes the international tax code to make it much more costly for U.S. companies to operate outside of the United States, punishing American workers who have jobs here supporting international sales. I use the example of Procter & Gamble in my hometown of Cincinnati. They are headquartered in Ohio, but they do business all over the world. They have told me that it will be far more expensive for them to do that, even uncompetitive for them to be working globally, because we will be the only developed country in the world that will charge them a tax to do that, and that will hurt the jobs in Cincinnati, OH, that support international sales.

It just doesn't make any sense. Why would we want to go back to that and have that lockout effect where profits are kept overseas and where companies actually become foreign companies?

In the Biden plan, it also eliminates the so-called foreign-derived intangible income provision. This was a carrot that we put in the law very deliberately, a carrot for companies to bring their intellectual property back here. By the way, that is what Google did. So did Cisco. So did Qualcomm. So did Synopsys. So did Facebook. They actually brought valuable intellectual property back home, creating high-paying high-tech jobs here in the United States of America. Why would we want to change that?

The bottom line is that this tax plan that has been proposed would make us uncompetitive again in the global economy, and the Biden administration knows it.

That is why, when Treasury Secretary Yellen announced the proposal to increase these taxes, she actually asked other countries around the world to raise their own corporate taxes. She pleaded with them: We are going to raise ours. You need to now raise your taxes.

Of course, when she said we need to do that to create a more level playing field, other countries in the world said: This is great. We are going to get more American investment and more business for our companies. In fact, right after she made that announcement, the Minister for Finance in Ireland was asked the question. He said he had no interest in joining America in raising taxes—nor do others. China is not going to raise its taxes. In fact, these countries are continuing to do what they have been doing, which is to knock down barriers to jobs and investment in their economies, and that makes sense from their points of view. It makes sense from our point of view to continue to be competitive also.

The tax increases would leave America standing alone atop the corporate tax rate chart. Studies by the non-partisan Congressional Budget Office and others have shown that, again, it is American workers who will bear the brunt of these corporate tax hikes in the form of lost jobs and lower wages.

Because of the tax hikes, the University of Pennsylvania's Penn Wharton

model, in analyzing this Biden plan, actually projects that we will see a nearly 1-percent decrease in the GDP and a 0.7-percent decrease in wages by 2031 over current projections. Now, this is extraordinary to me because that is despite the economic benefit—the obvious benefit—we are going to get from this infrastructure spending. So, despite all of that benefit, we are still going to see a reduction in our economy, or economic growth, and a reduction in wages. This harms American workers, particularly those toward the bottom of the economic ladder.

The bottom line is that the \$2.1 trillion tax hike used to pay for this infrastructure bill will harm middle-class families and our businesses, and I believe the American people get that. They recognize that this is not the way forward for our economy or for our infrastructure.

Instead, let's follow the proven bipartisan model on infrastructure. Let's keep the plan to real infrastructure. Let's agree to what it is. Let's do it generously. Let's include broadband. Let's include water projects. Let's make it real infrastructure, though. Then let's come up with sensible pay-fors, including user fees. That is what the American people want, and that is what they deserve.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Kansas.

U.S. SUPREME COURT

MR. MORAN. Mr. President, legislation called the Judiciary Act of 2021 was introduced last week that would immediately expand the Supreme Court to 13 Justices.

If this is serious in its intent, it is foolish. There is no need to expand the Court in order to meet the demands of its workload. After the peaking in 2006, when President George W. Bush was in office, the number of cases on the docket has now plummeted.

In 2019, the late Justice Ruth Bader Ginsburg, a liberal icon appointed by President Clinton, told NPR that there is no need to expand the Court, saying: "Nine seems to be a good number."

With that established, this is a transparent ploy for power that would undermine trust in the fair application of law and delegitimize the highest Court in the land.

If this is really a serious policy piece of legislation, we certainly wouldn't change the number of Supreme Court Justices immediately. If it weren't just politics, we certainly wouldn't change the Justices before another election. In fact, Senator Joe Biden, on this Senate floor, called FDR's attempt to pack the Court "a power grab," and as a Presidential candidate this last year, he refused to endorse expanding the number of Justices.

Earlier this month, Justice Stephen Breyer, appointed by President Clinton, said the Court's authority depends on "a trust that the Court is guided by legal principles, not politics." He continued by saying, "Structural alteration motivated by the perception of

political influence can only feed that latter perception, further eroding that trust.”

If the public sees any judge and Supreme Court Justices as politicians in robes, the public’s confidence in the courts and in the rule of law itself can only be diminished, diminishing the Court’s power, including its power to act as a check on other branches of government.

Last August, Gallup found that 58 percent of Americans approve of the job the Supreme Court is doing. In fact, the Supreme Court’s approval ratings have actually increased in the last several years. Polling from February of this year finds that 35 percent of Americans approve of the job that we in Congress are doing, and that is up from 15 percent not many days ago.

I raise this data to demonstrate that the Supreme Court is an institution which a majority of Americans continues to place its trust in. That is a significant circumstance in today’s polarized world, but a majority of Americans still believes it can trust the Supreme Court. If we in Congress inject ourselves into the size of the Court’s composition, Justice Breyer is exactly right, in that the trust the American people have that the rulings will be delivered on a fair reading of the law will be further undermined.

On the Republican side of the aisle, we have seen our share of defeats in recent years, and not once when the Republican Party controlled Congress and had the White House were there efforts to expand the Supreme Court. Can you imagine how the left or the media would react if President Trump had attempted to expand the Court to 13 Justices and add 4 Republican-nominated Justices during his tenure?

We have not attempted to expand the Court because the Supreme Court should not serve as another legislative body. That is our job—a job we need to do much better than we do today so that more than one-third of the American people can place their confidence in us as we pass laws.

We have had the same number of Supreme Court Justices for more than 150 years. Perhaps the Judiciary Act of 2021 is less an effort to expand the Supreme Court than it is an effort to intimidate sitting Justices to deliver rulings favorable to the ideology of my colleagues who are proposing the legislation. From guns to abortion, to religious liberties, to other hot-button issues, my colleagues are threatening the Justices either to deliver favorable rulings or to not take up divisive cases at all. If this is what my colleagues seek to accomplish, I am confident that the independence and integrity of our Justices will prevail. Indeed, this must prevail to preserve the American people’s confidence in the institution of the courts, in the judicial system, in the Supreme Court.

I am disappointed because, rather than working with each other across the aisle—across this aisle right here—

to pass legislation, the Democrats are more interested in pursuing a larger Supreme Court and more interested in eliminating the filibuster to pass their agenda—to stack the Court to prevent their legislation from being struck down as unconstitutional.

Process matters around here. We have to get to the point at which we utilize the process to get a fair and just result, wherein all people’s voices are heard, wherein all Members of the Senate have the opportunity to express their views and have an opportunity for that to be voted on, but we don’t skew the process to get a desired outcome. We all need to do our jobs to convince our colleagues that we are right in our positions, that our legislation is meritorious. We don’t and we shouldn’t change the process to get our way.

The checks and balances of our Constitution work. They have worked for a long time. They are important to this country. When we talk about how divisive things are on the Senate floor and in this country today, the solution to that is not to change the rules in the middle of the game. It is to abide by the rules that protect our freedoms and liberties.

I implore my colleagues to have the same faith in these constitutional guardrails as I do, to have the same faith in the independence and fairness of the Supreme Court that a majority of Americans has, and to believe that we can work together, that you and I can work together on behalf of the Americans we serve, the Americans we represent, without resorting to acts that will damage us all today and for generations to come.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the cloture motions with respect to amendment 1445 and S. 937 be withdrawn; that when the Senate resumes consideration of S. 937 on Thursday, April 22, the following amendments be reported by number and they be the only amendments in order: Cruz-Kennedy No. 1456, Lee No. 1425, Blackburn No. 1458; further, that at 11:30 a.m., the Senate vote in relation to the amendments in the order

listed; that amendment No. 1445, as amended, if amended, be agreed to; the bill be considered and read a third time; and the Senate vote on passage of the bill, as amended, with 60 affirmative votes required for adoption of the amendments and passage of the bill, with 4 minutes of debate equally divided prior to each vote, all with no intervening action or debate; and, finally, that the motions to reconsider be considered made and laid upon the table with no intervening or debate.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

MORNING BUSINESS

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JOE GROSSMAN

Mr. MCCONNELL. Mr. President, my friend Joe Grossman has approached his work for the last 35 years with a head for numbers and a heart for people. As an accountant turned CEO of the largest healthcare organization in Southeastern Kentucky, Joe’s experienced leadership has helped improve the quality of life for hundreds of thousands. This summer, Joe will close his chapter leading Appalachian Regional Healthcare, ARH, and a career of excellence and accomplishment. As he begins a well-deserved retirement, I would like to share my congratulations and gratitude for his many contributions to the Bluegrass.

For nearly two decades, Joe has been entrusted with key financial and operational positions at ARH. At each step, he has helped the system expand and thrive. When the position opened, Joe was the obvious choice to take over as president and CEO. He pushed ARH to continue growing in service to its patients, employees, and communities.

Today, the system operates 13 hospitals in Kentucky and West Virginia as well as 80-plus clinic locations. With a team of more than 6,000 dedicated professionals, ARH serves nearly 400,000 individuals across the region. The system’s extensive reach makes a transformative impact on rural Kentucky communities every day and helps make the area a destination for top-tier medical talent. Joe’s leadership even contributed to a national magazine naming ARH one of the Top 10 Employers in Kentucky.

Overseeing an organization of ARH’s size and importance would be a remarkable feat in any year, but Joe exceeded expectations once again during the pandemic. Last month, I visited the ARH facility in Hazard to speak with Joe and his team about the roll-out of the multiple safe and effective COVID-19 vaccines. At that time, three